HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 54 of 2006

Ramesh Chandra Rajpur s/o Sri Kishori Singh
Village Bashirpura, P.O. Jalalabad,
Bijnor ..... Applicant

Versus

1. State of Uttaranchal
2. Sri R.C. Dixit, Secretary Haridwar Union Central Consumer Co-operative Stroes Ltd..... Respondents

Dated: 11.12.2006

Hon'ble Rajesh Tandon, J.

Heard Sri. B.S. Adhikari counsel for the petitioner and A.G.A. for the State.

By the present application under section 482 Cr.P.C. the applicant has prayed for quashing the proceedings in criminal Case No. 3804 of 2002 State vs. Ramesh under section 409 I.P.C. pending in the Court of the Chief Judicial Magistrate, Haridwar.

Briefly stated the respondent no.2 lodged a report on 7.3.1984 against the applicant under section 409 I.P.C. The police has investigated the case and after completing formalities of investigation submitted charge sheet against the applicant under section 409 I.P.C.

The Chief Judicial Magistrate took cognizance of the case and issued summons to the accused applicant. The applicant has moved a protest application before the Chief Judicial

Magistrate which was dismissed by order dated 20.9.2004. The applicant filed a revision against the said order of the Chief Judicial Magistrate before the Sessions Judge, Haridwar. The revision was also dismissed vide order dated 21.10.2005 by the Sessions Judge. Feeling aggrieved the present application under section 482 Cr.P.C. has been preferred by the applicant.

At this stage I find no infirmity in the case as a bare perusal of the F.I.R. shows that prima facie a cognizance offence against the accused has been made out.

So far as the instant petition under section 482 Cr.P.C. is concerned no interference can be made under section 482 Cr.P.C. in order to short-circuit the trial. Both the parties will be at liberty to lead the evidence. In view of the observations made by the Apex Court in the case Medchl Chemicals and Pharma (P) Ltd. vs. Biological E. Ltd. and others (2003) 3 SCC 269. I find no ground to interfere under section 482 Cr.P.C.

However, if the applicant surrenders the trial Court shall consider the release of the applicant as expeditiously as possible without any delay.

Subject to the above observation, application under section 482 is disposed of.

Dated: 11.12.2006 **Rajesh Tandon, J.**

* Dhyani